



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

July 17, 1998

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

DR LYNN RENO
9417 EUCALYPTUS DR
BAKERSFIELD CA 93306

RE: Pending Notice of Violation for Illegal Diversion of Water, Water Right No. 34-00470A

Dear Dr. Reno:

During a recent visit to your property near Mackay, Idaho, to conduct flow measurement tests of the well shared by Aslett and yourself, I observed Warm Springs Creek water diverted into the Upper Fish Hatchery Canal being re-diverted to your and Johnson's shared ditch, but not used on your authorized place of use. Water Right No. 34-00470A from Warm Springs Creek authorizes diversion of 1.6 cfs for use on 74 acres at 08N 22E 36 NESE and 08N 23E 31 NWSW (lot 3).

During my visit, the well was being used to irrigate most of this property via two wheel lines. Scott Johnson, Steve Aslett, and Watermaster Doug Rosenkrance were also present during this visit. Mr. Johnson explained that your rights (34-00470A) were being diverted into the Upper Fish Hatchery Canal, and that he and you were diverting down the shared ditch and "exchanging" water. However, it appears that the current extent of beneficial use of canal water on your property was flood irrigation of a few acres of "bumps"; lower lying grounds at the eastern end of your property near Warm Springs Creek which are apparently not irrigated with the wheel lines. Right 34-00470A is not being used to irrigate the majority of your property. It appears that diversions from Warm Springs Creek are not in conformance with right 34-00470A.

Idaho Code §42-351 states:

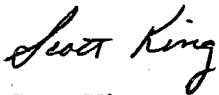
If the director of the department of water resources finds, on the basis of available information, that a person is diverting water or has diverted water from a natural watercourse or from a ground water source without having obtained a valid water right to do so or is applying water or has applied water not in conformance with a valid water right, then the director of the department of water resources shall have the discretion to issue a written notice of violation to the person in accordance with the provisions of section 42-1701B, Idaho Code, for the illegal diversion or use of water. Notwithstanding the issuance of a notice of violation, the director

may also file an action seeking injunctive relief directing the person to cease and desist the activity or activities alleged to be in violation of applicable law or any existing water right.

This letter is notification that the Department may issue a Notice of Violation for illegal diversion of water unless diversion ceases or unless water is used in conformance with this right. Please respond to Watermaster Doug Rosenkrance (208-588-3137) or myself about diversions from Warm Springs Creek by July 24, 1998.

Thank you for your cooperation in this matter. If you have questions, please contact me by mail at the above address or by phone at (208) 327-7897.

Sincerely,

A handwritten signature in cursive script that reads "Scott King".

Scott King
Water Distribution

c. Doug Rosenkrance